

REMARKS

Claims 1-36 remain pending in the application.

Restriction Requirement

In Applicant's May 2, 2006, Amendment, the restriction requirement was traversed. That restriction requirement has not yet been made final.

Upon the allowance of generic claim 1, all claims dependent thereon should likewise be allowed.

New Rejections

The claims are newly rejected based on Dellert (5,760,916). Dellert is understood to be a Kodak disclosure in which a consumer's film is submitted for developing, and Kodak posts digitized counterparts to the exposed pictures on the internet, for access by the consumer.

Dellert does not teach, nor suggest, any method involving a governmental agency – as required by claim 1. The Office stretches too far in arguing that Kodak and the government are both "agencies," thereby rendering one to be obvious over the other.

(As the Board will recognize, the remarks presented on page 7 of Applicant's May 2, 2006 Amendment concerned enablement, and do not support a view that an artisan – at the time the present invention was made – would have found the claimed arrangement for use of a government image archive to have been obvious.)

Moreover, in Dellert, it is the consumer who owns the image. Kodak simply acts as a commercial image service provider – providing services to consumers who are proprietors of their respective images. Dellert teaches providing a consumer with electronic access to images *that the consumer owns*.

In contrast, image archives maintained by governmental agencies are not commercial repositories for images owned by consumers. The images are owned by the government. Nothing in Dellert would have led an artisan to grant access to a consumer to such an archive. Instead, hindsight appears to have guided the rejection.

Accordingly, claim 1 – and claims thereon – are believed properly patentable over Dellert.

Limitations in claim 5 have been improperly disregarded by the Office, as “descriptive.”

Applicant respectfully disagrees. The “descriptive” case law cited in the Action involves information printed on, or stored on, a physical medium. *Gulack* involved nonfunctional matter printed on a substrate. *Lowry* involved a data structure stored in a memory. (Moreover, *Lowry*’s claim was found patentable by the CAFC: “*The Board erred by denying patentable weight to Lowry’s [claim] limitations.*”)

The disputed claims are not drawn to a physical medium, but rather are *method* claims. The claimed acts of “soliciting” and “receiving,” have no meaning without the nouns and adjectives appearing in the claim. As was the case in *Lowry*, it is error for the Office to disregard applicant’s claim limitations. Again, this error will be evident to the Board.

The foregoing points are believed sufficient to establish that the claims are patentable over the art. Accordingly, applicant does not further belabor this response by additional remarks on the rejections, the art, or the claims – all of which are reserved for possible later presentation.

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Respectfully submitted,

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